


B1040 (FORM 1040) (12/15)

<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)		
<b>PLAINTIFFS</b>  Pawnee Leasing Corporation	<b>DEFENDANTS</b>  Hooked, Inc.			
<b>ATTORNEYS (Firm Name, Address, and Telephone No.)</b>  Keifer Law Firm, LLC 311 Market Street Kingston, PA 18704 (570)371-3851	<b>ATTORNEYS (If Known)</b>			
<b>PARTY (Check One Box Only)</b> <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	<b>PARTY (Check One Box Only)</b> <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee			
<b>CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)</b>  <div style="height: 40px;"></div>				
<b>NATURE OF SUIT</b> (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(1) – Recovery of Money/Property</b>  <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property  <input type="checkbox"/> 12-Recovery of money/property - §547 preference  <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer  <input type="checkbox"/> 14-Recovery of money/property - other   <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b>  <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property   <b>FRBP 7001(3) – Approval of Sale of Property</b>  <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)   <b>FRBP 7001(4) – Objection/Revocation of Discharge</b>  <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)   <b>FRBP 7001(5) – Revocation of Confirmation</b>  <input type="checkbox"/> 51-Revocation of confirmation   <b>FRBP 7001(6) – Dischargeability</b>  <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims  <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud  <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny   <div style="text-align: center;">(continued next column)</div> </td> <td style="width: 50%; 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<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23			
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$ <span style="margin-left: 20px;">injunctive relief</span>			
Other Relief Sought				

**B1040 (FORM 1040) (12/15)**

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Clovis Johnson		BANKRUPTCY CASE NO.
DISTRICT IN WHICH CASE IS PENDING Eastern	DIVISION OFFICE Philadelphia	NAME OF JUDGE Honorable Jean K. FitzSimon
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE 11/2/2016		PRINT NAME OF ATTORNEY (OR PLAINTIFF) Richard W. Keifer III

**INSTRUCTIONS**

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:	:	
	:	Chapter 13
Clovies Johnson,	:	
Debtor	:	Bankruptcy No. 16- 16411-JKF-13
Pawnee Leasing Corporation,	:	
Plaintiff	:	Adv. Proc. No. 16-
vs.	:	
Hooked, Inc.,	:	
Defendant	:	

**Complaint**

Plaintiff, Pawnee Leasing Corporation, by and through its attorneys, Keifer Law Firm, LLC hereby files this complaint and avers as follows:

**Jurisdiction and Venue**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of this proceeding in this Court is proper pursuant to 28 U.S.C. §1408. The statutory predicates for the relief requested herein is 11 U.S.C. §542 (a) of the Bankruptcy Code. This Complaint is filed pursuant to Bankruptcy 7701 (1)(7).

**The Parties**

2. Plaintiff, Pawnee Leasing Corporation, is a Colorado corporation with its principal place of business located at 3801 Automation Way, Ste. 207, Fort Collins, CO 80525.

3. Defendant, Hooked, Inc., is a Pennsylvania Corporation with its principal place of business located at 2210 W. Westmoreland Street, Philadelphia, PA 19140.

**COUNT I - Cause of action for return of property to the Debtor pursuant to 11 U.S. Code 542(a)**

4. Debtor is Clovies Johnson. With William C. Miller serving as Chapter 13 Trustee.

5. On July 23, 2015, Debtor entered into an equipment finance agreement with Plaintiff. A true and correct copy of the security agreement is attached hereto and made a part hereof as Exhibit "A." At that time Debtor entered into a security agreement contained therein and an encumbrance was placed on the title to the vehicle.

6. The vehicle secured by the equipment finance agreement was a 2006 International 4400, VIN# 1HSMKAAN26H156571 which remains as property of the Debtor's estate pursuant to 11 U.S.C. § 541. The Plaintiff maintains a first priority security interest in the vehicle. See Exhibit "A."

7. The Defendant towed the Debtor's vehicle and is storing it, refusing to turn it over to Debtor.

8. Debtor filed this Chapter 13 case and relief was ordered.

9. Plaintiff was informed that the vehicle was in the possession of the Defendant through Debtor's bankruptcy counsel.

10. When Plaintiff contacted the Defendant concerning the vehicle, the Defendant informed Plaintiff that it would only accept cash in the amount of \$2,700.00 and would not complete a W-9. Plaintiff asked Defendant's representative of the amounts claimed and received no response.

11. Plaintiff attempted on behalf of debtor, reserving rights to determine if the amount claimed by Defendant was just and reasonable, to pay by check or credit card, but such was not acceptable to Defendant, who demanded only cash.

12. Plaintiff and Debtor believe that the amount claimed by the Defendant is excessive and should be reviewed and reduced.

13. On October 19, 2016, Defendant sent correspondence to Plaintiff informing Plaintiff that "As of November 5, 2016 the vehicle will be up for abandonment," to Defendant.

14. The automatic stay pursuant 11 U.S.C. 362 is in place prohibiting Defendant from selling the vehicle.

15. The Debtor's proposed plan contemplates surrendering the vehicle to Plaintiff upon confirmation of Debtor's plan.

16. Plaintiff intends to see that vehicle in a commercially reasonable manner, thereby benefitting the debtor and unsecured creditors. Plaintiff will assist Debtor in any way desired to accomplish such.

**Basis for the Relief Requested**

17. §542 (a) of the Bankruptcy Code provides for the turnover of property to the estate unless the property is of inconsequential value.

18. The value of the vehicle is listed as \$18,000.00 in the debtor's proposed plan.

19. The value of the vehicle is not inconsequential.

20. If Defendant continues to violate the automatic stay and disposes of the vehicle with no proceeds available for debtor's plan substantial irreparable injury will be caused.

**Relief Requested**

21. Plaintiff requests that this Court order Defendant to return the vehicle to the Debtor to permit sale.

WHEREFORE, Plaintiff requests that this Court require defendant to turn over the vehicle to Debtor and for such other and further relief as is just.

**COUNT II - Cause of action for Injunctive Relief**

22. By letter dated October 19, 2016, Defendant informed Plaintiff that “As of November 5, 2016 the vehicle will be up for abandonment,” and Defendant will further violate the automatic stay.

23. Defendant will not dispose of the vehicle in a commercially reasonable manner, thereby harming the estate by causing no proceeds to be available which will result in all creditors receiving fewer payments pursuant to the plan in that the claim of Plaintiff would not be reduced from proceeds from sale of secured property.

24. Plaintiff has attempted to pay reasonable towing and storage charges via check or credit card, but Defendant refuses to accept anything other than cash and will not complete a W-9.

25. Plaintiff and the Debtor’s estate, including all unsecured creditors, will suffer irreparable injury if the vehicle is not sold in a commercially reasonable manner.

26. If the vehicle is sold in a commercial reasonable manner with proceeds first allocated to Defendant’s adjusted claim for towing and storage with the remaining part paid to Plaintiff as proceeds, Debtor can determine what would be available for unsecured creditors with Plaintiff’s claim reduced.

**Basis for the Relief Requested**

27. Bankruptcy Rule 7001 (1) (7) FRBP allows for injunctive relief.

28. Defendant is threatening that As of November 5, 2016 the vehicle will be up for abandonment,” and Defendant will deprive Debtor and Plaintiff of any value for the vehicle.

29. The value of the vehicle is listed as \$18,000.00 in the debtor’s proposed plan and the harm caused by the vehicle not being disposed of in a commercially reasonable manner is

irreparable if Debtor disposes of the vehicle in violation of the automatic stay.

30. If Defendant proceeds in violation of the automatic stay such action could be deemed as contempt, which will not happen if the injunction is entered.

31. If the vehicle is sold making funds available to the estate, after administrative expenses are allowed and additional proceeds are applied to lessen Plaintiff's secured claim, Plaintiff will be entitled to a lesser share of monthly plan payments, making more funds available for unsecured creditors thereby

**Relief Requested**

32. Plaintiff requests that this Court enjoins Defendant from disposing of the vehicle pending resolution of all issues.

WHEREFORE, Plaintiff requests entry of an order enjoining Defendant from disposing of the vehicle and for such other and further relief as is just.

Respectfully Submitted,

Keifer Law Firm, LLC  
BY:

/s/ Richard W. Keifer III  
311 Market Street  
Kingston, PA 18704  
Phone: (570)371-3851  
Attorney for Plaintiff  
Pawnee Leasing Corporation

Date: 11/2/16